

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 128 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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ZARINABEN W/O NAZMUMDDIN

Versus

NAZMUDDIN SAIFUDDIN VASANWALA

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Appearance:

MR KV SHELAT for Petitioners  
MR MUKESH R SHAH for Respondent No. 1  
PUBLIC PROSECUTOR for Respondent No. 2  
SERVED for Respondent No. 3  
MS PROMILA SAFAYA for Respondent No. 4

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CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 25/02/97

ORAL JUDGEMENT

This Special Criminal Application has been filed seeking direction to quash and set aside the order dated 24.1.1997 passed by the learned Judicial Magistrate First Class, Dahod in Criminal Misc. Application No.41/97 below Exh.6 - Annexure 'C', by which the learned

Magistrate ordered for return of the passport to the non-applicant No.1 - Nazamudin Saifudin Vasanwala.

2. It appears that the petitioner No.1 married with respondent No.1 in the year 1983 according to Muslim Sariat and the petitioner No.2 is the female child born out of the said marital wedlock. Petitioner No.2 was born on 25.9.1986. They were living together at Dahod. But subsequently, the non-applicant Nizamudin Vasanwala left for Dubai and now he is mostly staying there. The petitioner filed application for maintenance under section 125 of the Cr.P.C. which is pending in the court of Judicial Magistrate First Class, Dahod being Criminal Misc.Application No.41/97. It is brought to my notice that interim maintenance has been awarded to both the petitioners @ Rs.250/- per month to each of them.

3. The parties before me have agreed the following arrangements:

1. that the order of interim maintenance be not given effect provided -

(a) that the respondent deposits an amount of Rs.1.5 lakhs in the Court of JMFC, Dahod in Criminal Misc.Application No.41/97 on or before 10.3.1997.

2. On such deposit being made, the same shall be invested in the joint names of the petitioners and the respondent-husband for an initial period of 3 years and the said F.D.R. shall not be encumbered in any manner by any of the parties and the interest on the said deposit recurring periodically every month shall be paid to the petitioners only.

3. The aforesaid deposit by the husband would be without prejudice to the rights and contentions of the respective parties in the legal proceedings before the appropriate court and their rights under personal law.

4. On such deposit before the trial court and on production of the receipt of Rs.1.5 lakhs. the passport deposited with this Court shall be returned to the respondent-husband.

5. It goes without saying that it is always open for the parties to communicate this order to all concerned.

The learned Magistrate shall pass appropriate order at the conclusion of the trial with respect to the amount deposited.

Rule made absolute to the aforesaid extent. Direct Service permitted.

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